

LEGISLATIVE REFERENDUM NO. 119
BALLOT LANGUAGE

LEGISLATIVE REFERENDUM NO. 119

AN ACT REFERRED BY THE LEGISLATURE

AN ACT REQUIRING THAT SUPREME COURT JUSTICES BE ELECTED AND APPOINTED FROM SUPREME COURT DISTRICTS; ESTABLISHING SUPREME COURT DISTRICTS; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA AT A SPECIAL ELECTION TO BE HELD CONCURRENTLY WITH THE 2012 PRIMARY ELECTION; AMENDING SECTIONS 3-2-101 AND 3-2-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

The Montana Supreme Court is composed of seven justices, one of whom is Chief Justice. Under current law, the justices are elected statewide and each Montanan votes for all seven positions. LR-119 would change existing law so that each justice is elected from one of seven districts of approximately equal population, with the Chief Justice then chosen from the seven by majority vote of the justices. Only Montanans living in each district would vote for their district's justice. Justices must reside in their district when initially elected.

- ☐ FOR requiring supreme court justices to be elected or appointed from districts with approximately equal populations.
- ☐ AGAINST requiring supreme court justices to be elected or appointed from districts with approximately equal populations.

THE COMPLETE TEXT OF SENATE BILL NO. 268, REFERRED BY LR-119

AN ACT REQUIRING THAT SUPREME COURT JUSTICES BE ELECTED AND APPOINTED FROM SUPREME COURT DISTRICTS; ESTABLISHING SUPREME COURT DISTRICTS; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA AT A SPECIAL ELECTION TO BE HELD CONCURRENTLY WITH THE 2012 PRIMARY ELECTION; AMENDING SECTIONS 3-2-101 AND 3-2-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-2-101, MCA, is amended to read:

"3-2-101. Number, election, and term of office -- selection of chief justice. (1) The supreme court consists of a chief justice and six associate justices who ~~are elected by the qualified electors of the state at large~~ must be qualified electors of the district from which they are elected, with each member elected from a separate district of the state as provided in [section 3]. Each justice must be elected at the general state elections election next preceding the expiration of the ~~terms~~ term of office of ~~their predecessors, respectively, the justice's predecessor and hold their offices~~ holds office for the term of 8 years from ~~and after~~ the first Monday of January ~~next~~ succeeding their the justice's election.

(2) After the general election in 2016, the chief justice must be selected by the majority vote of the seven justices at the first meeting of the court in each year after a general election."

Section 2. Section 3-2-102, MCA, is amended to read:

"3-2-102. Qualifications and residence. (1) A person is not eligible for the office of justice of the supreme court unless the person is a citizen of the United States, has resided in the state 2 years immediately before taking office, and has been admitted to practice law in Montana for at least 5 years prior to the date of appointment or election.

(2) Justices of the supreme court must reside within the state during their terms of office. Once elected from a district, a justice is not required to reside within the district during the justice's service in office.

(3) A supreme court justice must, at the time of initial election, be a qualified elector of the supreme court district from which the justice is elected. A supreme court justice appointed to fill a vacancy must, at the time of appointment, be a qualified elector of the same initial supreme court district as the justice being replaced, and in an election following an appointment, the elected justice must be a qualified elector of the initial district."

Section 3. Supreme court districts defined -- number of judges. (1) In this state there are seven supreme court judicial districts, distributed as follows:

(a) 1st district: Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Liberty, Meagher, Pondera, Teton, and Wheatland Counties;

(b) 2nd district: Big Horn, Blaine, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Garfield, McCone, Musselshell, Park, Petroleum, Phillips, Powder River, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Stillwater, Sweet Grass, Treasure, Valley, and Wibaux Counties;

(c) 3rd district: Yellowstone County;

(d) 4th district: Lewis and Clark, Deer Lodge, Granite, Jefferson, Ravalli, Powell, and Broadwater Counties;

(e) 5th district: Flathead, Lincoln, Glacier, Sanders, and Toole Counties;

(f) 6th district: Gallatin, Madison, Beaverhead, and Silver Bow Counties;

(g) 7th district: Missoula, Lake, and Mineral Counties.

(2) There must be one supreme court justice selected from each district.

(3) The legislature shall review the districts after each decennial census for purposes of maintaining districts with approximately equal populations while following county lines.

Section 4. Transition. (1) [This act] may not remove any justice that is holding office on [the effective date of this act] during the term for which the justice was elected or appointed. After [the effective date of this act], each sitting associate justice must be assigned to the judicial district that corresponds to the associate justice's current seat number and the chief justice must be assigned to the seventh district.

(2) (a) Except as provided in subsection (2)(b), each supreme court justice who chooses to seek reelection at the end of the justice's current term shall run for reelection in the district to which the justice is assigned under subsection (1).

(b) A sitting justice that chooses to seek election in a district other than the district assigned under subsection (1) may run for election in the district if the justice resigns the justice's current seat effective as of the date the justice files for election in the district to which the justice seeks election.

(3) In the 2012 election, the two candidates receiving the most votes in the primary for each seat up for reelection advance to the 2012 general election for the district that corresponds to the same seat number.

Section 5. Codification instruction. [Section 3] is intended to be codified as an integral part of Title 3, chapter 2, and the provisions of Title 3, chapter 2, apply to [section 3].

Section 6. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 7. Effective date. [This act] is effective upon approval by the electorate.

Section 8. Applicability. [This act] applies to the election and appointment of supreme court justices to terms that begin on or after [the effective date of this act].

Section 9. Submission to electorate. [This act] shall be submitted to the qualified electors of Montana at a special election to be held concurrently with the primary election held in the spring of 2012 by printing on the ballot the full title of [this act] and the following:

- ☐ FOR requiring supreme court justices to be elected or appointed from districts with approximately equal populations.
- ☐ AGAINST requiring supreme court justices to be elected or appointed from districts with approximately equal populations.